

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 98-051-C - ORDER NO. 98-444

SEPTEMBER 15, 1998

IN RE: Request of BellSouth Telecommunications,	)	ORDER ADDRESSING
Inc. for Approval of Revisions to its General	)	BELLSOUTH TARIFF
Subscriber Service Tariff to Increase the	)	FILING
Rates for Directory Assistance Service for	)	
Payphone Service Providers (REF: Tariff No.	)	
97-546).	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) with regard to the BellSouth Telecommunication, Inc. (BellSouth) filing of price changes for directory assistance calls applicable to Payphone Service Providers (PSP). The changes were filed by BellSouth pursuant to its Alternative Regulation Plan (the Plan). Petitions concerning this proposal were filed on behalf of the South Carolina Public Communications Association (SCPCA) and the Consumer Advocate for the State of South Carolina (the Consumer Advocate). After due consideration of this matter, the Commission determined that it should be set for hearing.

Accordingly, a hearing was held on June 3, 1998 at 2:30 PM in the offices of the Commission with the Honorable Guy Butler, Chairman, presiding. BellSouth was represented by Robert Culpepper, Esquire and William F. Austin, Esquire. BellSouth presented the testimony of Conrad D. Martin (Direct and Rebuttal) and Sandy Sanders (Rebuttal). SCPCA was represented by John F. Beach, Esquire. SCPCA presented the testimony of Walter Rice. The Consumer Advocate was represented by Elliott F. Elam,

Jr., Esquire. The Consumer Advocate presented no witnesses. The Commission Staff (the Staff) was represented by F. David Butler, General Counsel. The Staff presented no witnesses.

Conrad Martin testified that, on October 31, 1997, BellSouth filed an increase in PSP Directory Assistance (DA) rates from \$.25 to \$.30 for local DA calls (GSST Section A3) and from \$.30 to \$.35 for non-local DA calls (GSST Section A18). Under BellSouth's Alternative Regulation Plan, these changes became presumptively valid on November 15, 1997. Martin noted that PSP DA service has been tariffed in the GSST since it was introduced in 1993, and has remained in that tariff. PSP DA has not been tariffed in the access services tariff of BellSouth. Also, PSP DA has been categorized as a non-basic service under BellSouth's Alternative Regulation Plan since 1996. Martin notes that a distinctly different service DA access service, is tariffed in the access services tariff and is included in the interconnection category of BellSouth's Plan.

Walter Rice, President of SCPCA also testified. Rice urges this Commission to either suspend the PSP DA tariff revision and address the rate increases proposed as part of Docket 97-124-C, or, in the alternative, begin an investigation into the cost basis and discriminatory impact of this tariff revision. Rice also stated SCPCA's belief that the services that are the subjects of this filing belong in the interconnection basket of the Plan. Rice also alleges, among other things, that BellSouth has not shown that the rate increases occasioned by the tariff revision are in the public interest. Rice also took the position that PSP DA is an associated feature of payphone service and thus required to meet the Federal Communications Commission's (FCC's) "new services" test. Rice also

alleged discriminatory treatment of SCPCA members with regard to the noticing of the tariff change itself.

BellSouth then presented the rebuttal testimony of Conrad Martin and Sandy Sanders. Martin attempted to explain that the rate increases were in the public interest. Martin explained the variety of DA providers available, and that the new DA rates were reflective of the marketplace. Sanders stated his belief that PSP DA is not an associated feature of payphone service and thus is not required to meet the FCC's "new services" test.

In summary, Sanders explained the "new services" test as follows: A portion of the FCC's Code of Federal Regulations states that "each tariff filing submitted by a local exchange carrier....that introduces a new service or restructured unbundled basic service element (BSE)...must be accompanied by cost data sufficient to establish that the new service or unbundled BSE will not recover more than a just and reasonable portion of the carrier's overhead costs." According to Sanders, Public Telephone Access Service (PTAS) for customer provided equipment line and Smartline service for public telephone access rates must meet the "new services" test, pursuant to certain FCC Orders. Sanders contends, however, that PSP DA is not a new or restructured service like the two services mentioned above. It is the same service that the Commission approved in 1993 and modified in 1996. Therefore, this service is not "new," and PSP DA is not an unbundled feature of payphone service provided by BellSouth. Sanders states that this service is not essential to the provisioning of basic payphone service, nor does it have to be obtained from BellSouth, and therefore is not considered an unbundled feature which must meet

the requirements of the “new services” test. As an example of contrasting features, Sanders states that blocking and screening features for basic payphone service are required to provision payphone service and must meet the “new services” test.

We have considered the testimony and the entire record in this case, and must conclude that BellSouth failed to show that the increases found in the tariff revisions were in the public interest. BellSouth did not equate the “variety” of choices for DA with the PSP DA price increases. We hold that this is not a showing of the public interest, as documented by the testimony of SCPCA witness Rice. Therefore the PSP DA price increases must be denied. We further hold that we did not get sufficient information from the hearing to determine whether there was discriminatory treatment of SCPCA members in the noticing of this tariff.

We do agree with BellSouth witness Sanders, however, that directory assistance for payphone service providers is not a new service or restructured unbundled basic service element associated with the provisioning of basic payphone service and thus is not required to meet the FCC’s “new services” test. Also, the testimony reveals that said directory assistance is not an essential service for the provision of basic PSP access service. Further, we hold that the PSP DA referred to in this case is in the correct “basket” under BellSouth’s Alternative Regulation Plan, as per the testimony.

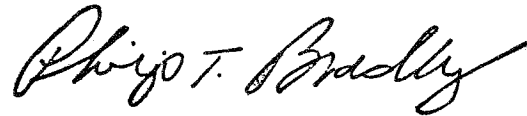
The rate increase in this case became presumptively valid on November 15, 1997. Since we have found that BellSouth did not meet its burden of proof that the increase was in the public interest, the question of refunds of excess monies collected unlawfully must be considered. The BellSouth Plan calls for refunds retroactive to the effective date of the

tariff if the Commission acts within the period allotted under the Plan. In Order No. 96-19, we stated, however, that we reserved the right to make adjustments to the Plan at any time. We believe that under the circumstances of the present case, and in the interests of justice and fairness, that refunds of the amounts collected by BellSouth over the prior approved PSP DA rates should be made to certain PSP providers back to the time of the rate increase. If a PSP did not pass the increase on to the end user, then we believe that that PSP should receive a full refund of all monies paid to BellSouth for DA service in excess of the rate approved prior to November 15, 1997. A refund will make said PSP “whole.” These PSP’s must satisfactorily demonstrate to BellSouth that they did not pass on the excess amounts before they shall be entitled to refunds. If, however, a PSP passed on the amount in excess of the old approved DA rate to the end users, then we hold that said PSP is not entitled to any refunds under the Plan in this case, since it has already been made “whole.” We believe that this plan is fair to BellSouth and PSPs, under the terms of this Order.

BellSouth shall report to this Commission the amounts of any refunds given under this Order, and to whom and when they were given.

This Order shall remain in full force and effect until further Order of the  
Commission.

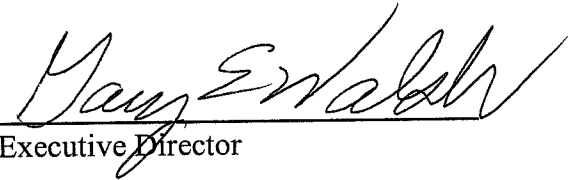
BY ORDER OF THE COMMISSION:



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Chairman

ATTEST:



**Acting** Executive Director

(SEAL)